

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Fifteenth Congress
First Regular Session

HOUSE BILL NO. 4822

Introduced by:

Gabriela Women's Partylist Reps. **Luzviminda C. Ilagan** and **Emerenciana A. De Jesus**

EXPLANATORY NOTE

Since embarking on exporting our surplus labor in the 1970s, the Philippines has witnessed the steady rise of illegal recruitment cases preying on dreamy-eyed Filipinos in search of greener pasture abroad. "A sucker is born every minute" and nothing better mirrors this saying than the ever growing cases of illegal recruitment in the country.

Becoming an overseas worker entails incalculable sacrifices. The story of Filipinos working abroad has been a narrative of hard-earned assets pawned or sold, promising careers left behind, fathers or mothers alienated from their children, children growing up without parents, and individuals lost in alien lands and culture. While those sacrifices had resulted in a "dream come true" to many, to a greater number of Filipinos, that dream has turned into a nightmare because of the bane of illegal recruitment.

With the easing of national borders to overseas employment brought about by globalization, illegal recruitment has in fact become a transnational crime. There are still illegal recruiters that operate as solitary individuals but, in the main, the field has been taken over by highly-organized syndicates which are enjoying the veil of corporate legitimacy as placement or travel agencies with extensive networks of accomplice or accessories here and abroad. They have taken advantage of the government's liberalization of the economy which has turned the recruitment industry, as with other industries, into a highly deregulated playing field, allowing illegal recruiters to weave in and out of the interstices of the "free market". The blinding development of communication and information technology has also enabled illegal recruiters to become highly mobile as to make detection and apprehension difficult for the authorities.

The government had responded to this situation by enacting laws providing for stiffer penalties for illegal recruitment and by creating special agencies for focused enforcement. A result of these initiatives was the creation of a branch in the Philippine Overseas Employment Administration (POEA) that specialized on investigating and prosecuting illegal recruitment cases. POEA investigators work hand in hand with the Anti-Illegal Recruitment Unit of the National Bureau of Investigation (NBI). And about two years ago, enforcement was strengthened by the creation of the Presidential Task Force Against Illegal Recruitment (PTFAIR).¹

Unfortunately, despite stiffer penalties and the existence of specialized enforcement agencies, cases of illegal recruitment have continued to rise. The Philippine Overseas Employment Administration does not have any figure on the national accumulated number of illegal recruitment cases.² One may argue such absence as proof of POEA incompetence but it could also be the tell-tale sign of a problem too complex for the POEA to handle. It is a situation best described by Migrant International when it called illegal recruitment a "many-headed hydra": you cut a head today and two or three heads will rise tomorrow.

In this respect, one problematic area that comes to view is that many illegal recruiters have escaped punishment because of unsuccessful prosecution. There are several factors for this and not all of these need to be elaborated here. Suffice it to say, according to Migrant International, among the factors bearing heavily on unsuccessful prosecution of illegal recruiters is the sad state of case overload of our courts. This has resulted in cases taking an average of three to five years to resolve, excluding the period of appeal, contravening the ninety (90) days the Constitution prescribes for deciding cases.

As the maxim goes, "justice delayed is justice denied". In this instance, however, the denial of justice comes not only from delayed resolution but also from the fact that many victims of illegal recruitment fall into trial fatigue and would just disengage from the case without a trace. Others simply surrender to the temptation of settlement, releasing the perpetrators back to business.

It is this specific problem area of law enforcement against illegal recruitment that this bill seeks to address. It draws from the experience and insights of existing specially-designated judicial forums, such as the special agrarian courts and juvenile courts, that have provided our citizens the ready attention for specific cases. It is premised upon the idea of strengthening the pillars of law enforcement specific to illegal recruitment, realizing that the initiatives made good in the legislative (increasing the penalties) and the executive (creation of focused enforcement agencies) must be complemented in the judicial arena.

¹ The PTFAIR became defunct on December 2010 given its two year lifespan but it was reactivated on May this year by President Noyncy Aquino.

² The data available from the POEA only covers Metro Manila. Moreover, POEA counts only those cases filed in court after preliminary investigation; illegal recruitment cases that do not reach the court are not counted. According to the POEA, it investigates an average of 300 illegal recruitment cases per year.

In pursuance of the constitutional mandate that "[a]ll persons shall have the right to a speedy disposition of their cases...", this bill authorizes the Supreme Court to designate special courts from among the existing regional trial courts in each judicial region to try and hear cases involving illegal recruitment, amending for the purpose Republic Act No. 8042, otherwise known as the "*Migrant Workers and Overseas Filipinos Act of 1995*", as amended.

Hopefully, the designation of special courts for illegal recruitment will result in speedy, if not speedier, disposition of cases and more successful prosecution of illegal recruiters within the constitutionally-prescribed period of 90 days.

In view of the foregoing, the authors of this bill earnestly seek its approval. .


LUZVIMINDA C. ILAGAN

EMERENCIANA A. DE JESUS

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Introduced by:

Gabriela Women's Partylist **LUZVIMINDA C. ILAGAN** and **EMERENCIANA A. DE JESUS**

**AN ACT AUTHORIZING THE SUPREME COURT
TO DESIGNATE SPECIAL COURTS FROM AMONG EXISTING
REGIONAL TRIAL COURTS IN EACH JUDICIAL REGION TO EXCLUSIVELY TRY
AND HEAR CASES INVOLVING ILLEGAL RECRUITMENT , AMENDING FOR THE
PURPOSE REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS THE "MIGRANT
WORKERS AND OVERSEAS FILIPINOS ACT OF 1995", AS AMENDED**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 6 of the Republic Act No. 8042, as amended, is hereby further amended to read as follows:

Section 6. **Definition.** – For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by non-licensee or non-holder of authority contemplated under Article 13 (f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

a) xxx

xxx

xxx

xxx

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

In addition to the acts enumerated above, it shall also be unlawful for any person or entity to commit the following prohibited acts:

(1) xxx

xxx

xxx

xxx

In the filing of cases for illegal recruitment or any of the prohibited acts under this Section, the Secretary of Labor and Employment, the POEA Administrator or their duly authorized representatives, or any aggrieved person may initiate the corresponding criminal action with the appropriate office. For this purpose, the affidavits and testimonies of operatives or personnel from the Department of Labor and Employment, POEA and other law enforcement agencies who witnessed the acts constituting the offense shall be sufficient to prosecute the accused.

In the prosecution of offenses punishable under this section, the public prosecutors of the Department of Justice shall collaborate with the anti-illegal recruitment branch of the POEA and, in certain cases, show the POEA lawyers to take the lead in the prosecution. The POEA lawyers who act as prosecutors in such cases shall be entitled to receive additional allowances as may be determined by the POEA Administrator.

THE SUPREME COURT SHALL DESIGNATE SPECIAL COURTS FROM AMONG THE EXISTING REGIONAL TRIAL COURTS IN EACH JUDICIAL REGION TO EXCLUSIVELY TRY AND HEAR CASES INVOLVING OFFENSES PUNISHABLE UNDER THIS SECTION. THE NUMBER OF COURTS DESIGNATED IN EACH JUDICIAL REGION SHALL BE BASED ON THE POPULATION AND THE NUMBER OF CASES PENDING IN EACH JUDICIAL REGION.

THE PRELIMINARY INVESTIGATION OF CASES FILED UNDER THIS ACT SHALL BE TERMINATED WITHIN A PERIOD OF THIRTY (30) DAYS FROM THE DATE OF FILING.

WHEN THE PRELIMINARY INVESTIGATION IS CONDUCTED BY THE PROSECUTOR AND PROBABLE CAUSE IS ESTABLISHED, THE CORRESPONDING INFORMATION SHALL BE FILED IN COURT WITHIN TWENTY FOUR (24) HOURS FROM THE DATE OF RECEIPT OF THE RECORDS OF THE CASE.

THE TRIAL OF THE CASE UNDER THIS SECTION SHALL BE TERMINATED BY THE COURT NOT LATER THAN NINETY (90) DAYS FROM THE COMMENCEMENT OF TRIAL. JUDGMENT SHALL BE RENDERED WITHIN A PERIOD OF THIRTY (30) DAYS FROM THE DATE THE CASE WAS SUBMITTED FOR DECISION.

The filing of an offense punishable under this Act shall be without prejudice to the filing of cases punishable under other existing laws, rules and regulations.

SECTION. 2. All laws, decrees, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION. 3. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,